

**Investigations of
Improper Activities
by State Employees:**
August 1 Through December 31, 1996

March 1997
Report I97-1

The first copy of each California State Auditor report is free.
Additional copies are \$3 each. You can obtain reports by contacting
the Bureau of State Audits at the following address:

**California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814
(916) 445-0255 or TDD (916) 445-0255 x 216**

OR

**This report may also be available
on the World Wide Web
<http://www.bsa.ca.gov/bsa/>**

Permission is granted to reproduce reports.



CALIFORNIA STATE AUDITOR

March 18, 1997

Investigative Report I97-1

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

Pursuant to the Reporting of Improper Governmental Activities Act, the Bureau of State Audits presents its investigative report concerning investigations of improper governmental activities completed from August 1 through December 31, 1996.

Respectfully submitted,

KURT R. SJOBERG
State Auditor

Table of Contents

<i>Summary</i>	<i>S-1</i>
----------------	------------

Results in Brief

Chapter 1

<i>Department of Personnel Administration:</i>	<i>1</i>
Theft of Retirement Funds	

Chapter 2

<i>Department of Transportation:</i>	<i>5</i>
Misuse of State Computers, Telephones, and Employees for Personal Benefit	

Chapter 3

<i>Department of Social Services:</i>	<i>11</i>
False Travel Expense and Attendance Claims	

Chapter 4

<i>Department of General Services:</i>	<i>19</i>
Improper Claims for Reimbursement	

Chapter 5

<i>Department of Social Services:</i>	<i>25</i>
Improper Acceptance of Gifts from a Licensee	

Chapter 6

<i>40th District Agricultural Association:</i>	<i>27</i>
Violations of Personnel Rules and Incompatible Activities	

Chapter 7

<i>Department of Water Resources:</i>	<i>29</i>
Misuse of State Computers and Telephones	

Chapter 8

Department of Social Services:	33
Improper Procurement of Interpretation Services	

Chapter 9

Misuse of the State's Electronic Mail	35
--	-----------

Chapter 10

Update on Previously Reported Issues:	39
Department of General Services	39
Department of Education	40
Department of Motor Vehicles	41

Appendix A

Activity Report	45
------------------------	-----------

Appendix B


State Laws, Regulations, and Policies	49
Index to Reports of Investigation	53

Summary



Investigative Highlights:

State employees engaged in improper activities, including the following:

- ☒ ***Stealing \$19,700 in deferred compensation funds.***
 - ☒ ***Using state time, computers, telephones, and employees to conduct personal business.***
 - ☒ ***Filing false travel expense claims and other questionable claims for reimbursement.***
 - ☒ ***Claiming to have worked hours that were not actually worked.***
 - ☒ ***Accepting improper gifts from a licensee of the State.***
-
- 

Results in Brief

The Bureau of State Audits administers the Reporting of Improper Governmental Activities Act (act), which is contained in Section 8547 of the California Government Code. The act defines "improper governmental activity" as any activity by a state agency or state employee during the employee's official duties that violates any state or federal law or regulation; is economically wasteful; or involves gross misconduct, incompetence, or inefficiency. The Bureau of State Audits receives and investigates complaints of improper governmental activities. To enable state employees and the public to report improper governmental activities, the state auditor maintains a toll-free whistleblower hotline. The hotline number is (800) 952-5665.

This report details the results of investigations and substantiated complaints by the Bureau of State Audits between August 1 and December 31, 1996. Complaints we substantiated include the following:

Department of Personnel Administration

- In 1984, a former office technician at the Department of Personnel Administration forged documents to steal over \$19,700 in deferred compensation funds held by the department on behalf of a state employee. The \$19,700 was in addition to the \$381,000 in deferred compensation funds that she stole in 1984 and 1985 and that we reported in October 1996.
- As a result of the office technician's thefts, the State could be liable for more than \$690,000, including the income the stolen funds would have produced otherwise.

Department of Transportation

- A supervisor used state time, computers, telephones, and employees to conduct his own businesses from 1989 through 1995.

- One of the employees who used state resources when performing work for the supervisor's business also used state computers and time in 1995 for personal business, including using an online service to engage in discussion groups and to download adult materials.

Department of Social Services

- An employee filed false travel claims, claiming that she drove more miles than she actually drove. She also improperly claimed a higher mileage-reimbursement rate than she was entitled to receive, claimed questionable lodging expenses, and claimed unnecessary meal and incidental expenses. As a result, she received at least \$8,394 more than she should have.
- The same employee did not work all of the hours she claimed on her time sheets during February and March 1996. As a result, the State paid her at least \$850 for time she did not work.

Whistleblower hotline:
(800) 952-5665

- Another employee improperly accepted gifts of ski-lift tickets in 1993 and 1994 from a licensee of the department.
- The department's Disability Evaluation Unit did not rotate the selections of vendors who provide interpretation services to non-English-speaking applicants for various disability benefits. As a result, some vendors received a disproportionate share of the State's business.

Department of General Services

- An employee of the Division of the State Architect improperly received \$1,238 in reimbursements for travel expenses, relocation expenses, and professional license fees from 1993 through 1996.

40th District Agricultural Association

- A district employee improperly supervised his son and allowed his son to store personal equipment on district property.

Department of Water Resources

- In 1996, an employee improperly used a state computer to access files on the Internet for her personal use and placed at least 822 personal telephone calls at the State's expense.

Miscellaneous Agencies

- In 1996, employees of the Department of Finance, the State Controller's Office, the Board of Equalization, the Franchise Tax Board, the Department of Health Services, and the Public Employees' Retirement System misused the State's electronic mail system.

If, after investigating allegations, the state auditor determines that there is reasonable evidence to believe that an employee or state agency has engaged in any improper governmental activity, the Bureau of State Audits reports the nature and details of the activity to the head of the employing agency or the appropriate appointing authority. The entity receiving the state auditor's report is required to report back to the state auditor any corrective action taken, including disciplinary action, no later than 30 days after the date of the investigative report. If corrective action is not completed within 30 days, the agency or appointing authority must report to the state auditor monthly until the action is complete.

This report summarizes corrective actions taken by agencies as a result of investigations presented in this report and investigations reported previously by the state auditor. This report also includes a report on conflicts of interest originally identified during an audit of the Department of Motor Vehicles' database redevelopment project.

In addition, Appendix A provides statistics on the complaints received by this office between August 1 and December 31, 1996, and summarizes our action on those complaints and other complaints that were awaiting review or assignment as of August 1, 1996.

Finally, Appendix B provides detailed descriptions of the laws, regulations, and policies that govern the types of improper governmental activities discussed in this report.



Chapter 1

Department of Personnel Administration: Theft of Retirement Funds

Allegation I960030.1

An employee at the Department of Personnel Administration (DPA) allegedly stole funds held by the State in the Deferred Compensation Plan (plan). This plan is part of a long-term savings program designed to supplement retirement income for state employees.

Results of Investigation


A former state employee stole \$19,700 in addition to the \$381,000 we identified in a previous report.




We investigated and substantiated the allegation. On October 16, 1996, we reported that the employee, an office technician, stole deferred-compensation funds totaling at least \$381,000 held by the State on behalf of three plan participants. Subsequently, we found that in 1984, the same office technician while working at the DPA forged documents to steal an additional \$19,700 in public funds. The stolen funds were from the Savings Plus Program, the plan administered by the DPA. These funds, owned by the State, were being held on behalf of plan participants.

Scope and Methodology

To conduct our investigation, we interviewed employees at the DPA and reviewed documents provided by the DPA and Great Western Bank, the institution which maintained the victim's deferred-compensation funds prior to the theft. The DPA assisted us in our investigation to determine when the theft occurred and the amount of the stolen funds. Because of the length of time that had passed since the theft occurred and because of limited record-retention periods, we were unable to obtain all of the documents used to commit the theft. We were also unable to obtain bank records indicating where the stolen funds were deposited. Because of the criminal nature of the case, we requested the assistance of the Department of Justice and referred the case to the Sacramento County District Attorney's Office.

Background

We previously reported that an office technician at the DPA forged documents to steal over \$381,000 in public funds from the DPA-administered plan. She stole over \$230,930 from "Victim A," a former employee of Camarillo State Hospital who left state service in 1983, by forging the victim's signature on documents, promoting the payout by convincing the DPA they were paying the funds to the victim. In addition, she stole over \$85,000 from "Victim B," a former Department of Transportation employee, by falsely declaring her mother as the beneficiary after the victim's death in 1985. Further, she stole \$65,250 from "Victim C," a Department of Education employee, by notifying the DPA that the victim was dead, and by using an alias to declare herself the beneficiary. Because the funds were withdrawn from the plan, they did not continue to accumulate interest, capital appreciation, or dividends. As a result of these three thefts, the State may be liable for more than \$642,700.¹


*The employee has been
sentenced to three years
in state prison.*


The office technician resigned from state service in September 1996 and surrendered to law enforcement authorities. The Sacramento County District Attorney's Office charged the employee with three counts of grand theft.² On December 3, 1996, the office technician pleaded guilty to one count of grand theft with a recommended sentence of three years in state prison. On January 31, 1997, the former employee was sentenced to three years in state prison and ordered to pay restitution of \$691,596—the estimated value of the stolen funds, including the funds stolen from the fourth victim.

Office Technician Stole Additional Funds


Subsequent to the release of our earlier report, with the assistance of the DPA and Great Western Bank, we substantiated that the office technician stole an additional \$19,700 from a fourth victim, "Victim D," in 1984. The DPA estimates the State's additional liability for this theft as of December 31, 1996, is \$48,960.

¹ In our Report I960030, we stated that, as a result of the three thefts, the State may be liable for more than \$500,000. However, the new amount of \$642,700 is based on more current calculations by the DPA.


² For a more detailed description of the laws governing grand theft, see Appendix B.

In order to receive the lump-sum payment of Victim D's funds, the office technician falsified a Beneficiary Payment Election form and submitted it to the DPA. The office technician used her maiden name as the beneficiary and used a Social Security number that was one digit different from her own. In addition, she reported the wrong date of death for Victim D; instead of April 9, 1982, when Victim D died, the office technician indicated Victim D's date of death was August 9, 1984. Further, the office technician used an address in Roseville, California, which belonged to her personal friends. She stated that no money was sent to the Roseville address; she instead instructed Great Western Bank to send the money to a mailbox in Sacramento. According to the office technician, she deposited the stolen funds in her personal bank account.

We were unable to determine how the office technician knew about Victim D's death. However, the office technician stated that she did not believe Victim D had designated a beneficiary. In accordance with Internal Revenue Service requirements, if the participant does not designate a beneficiary, the monies are paid to the participant's estate or to an established trust. Although she stated that she thought the amount she stole from Victim D was only about \$7,000, records maintained by Great Western Bank indicate it paid the office technician over \$19,700 in December 1984.



Because the employee stole funds held by the State on behalf of individuals, as of December 31, 1996, the State could be liable for over \$691,660.



As stated in our earlier report, we believe the State may be liable to Victim D's estate for the funds stolen by the office technician and for the income those funds would have produced had they remained invested in the plan. According to the DPA's estimated calculations, if the \$19,700 stolen from Victim D had remained in the plan, the current value of the account would be over \$48,960. Combined with the potential liability for the previous thefts from the other victims of over \$642,700, the office technician is responsible for creating a total potential liability for the State, as of December 31, 1996, of over \$691,660.³ Moreover, because of lost interest and earnings, this figure will continue to increase by approximately \$3,000 per month until the State restores the accounts.

Continuing Investigation

Our investigation did not include a complete review of the DPA's system of internal controls over the plan. However, because previous weaknesses in the system allowed at

³As discussed in Report 1960030, the office technician repaid Victim B's beneficiary the funds due from the plan; however, neither Victim A nor Victim C ever received their deferred compensation funds.

least four thefts to occur, we are currently reviewing the DPA's system of internal controls. We are also continuing to investigate the possibility that someone assisted the office technician in one or more of the thefts.

Conclusion

In addition to the thefts from three plan participants, the former office technician at the DPA admitted to forging documents and stealing public funds maintained by the DPA for a fourth plan participant. Although the office technician disputes the amount, records indicate she stole over \$19,700, which the DPA held for the plan participant. As a result, the State may be liable for \$48,960 when considering the amount stolen and the earnings that would have been generated had the funds remained with the plan.

Agency Response

The DPA will conduct two reviews of the plan during the first four months of 1997 to identify business practices that can reduce the risk of fraud. These reviews will be conducted by an outside consultant and the DPA staff. In addition, the DPA is hiring a consulting firm to compare the plan's business practices to the "best practices" of similar organizations. Finally, the DPA has established a team composed of staff, a former employee of the State Controller's Office, and an investigator from our staff. This team will brainstorm scenarios that could be used to circumvent controls and then design safeguards to prevent such schemes from being successful.

Chapter 2



Department of Transportation: Misuse of State Computers, Telephones, and Employees for Personal Benefit

Allegation I950149

A supervisor and another employee at the Engineering Services Branch (branch) within the Department of Transportation (department) in Los Angeles allegedly used state time and equipment for personal gain.

Results of Investigation

We investigated and substantiated the complaint. Specifically, a supervisor used state time, computers, telephones, and employees to conduct his own businesses for personal gain.⁴ Also, another employee used state time and computers for personal benefit.


The supervisor used state resources to support four private businesses.



To investigate the complaint, we reviewed backup copies of files from these employees' state computers. We also reviewed records of telephone calls originating from the state telephones and facsimile machines assigned to the employees. Moreover, we reviewed the employees' time sheets and bank records. Finally, we interviewed the employees and other employees at the department's Los Angeles district.

Supervisor Used State Resources To Conduct His Own Businesses


A supervisor within the branch at the department in Los Angeles used state time, computers, telephones, and employees to conduct his own businesses since 1989. Specifically, the supervisor owns a land survey firm, which provides services to non-state entities for fees. From April 1989 through December 1995, his land survey firm generated revenues of over \$180,000. The supervisor also has ownership interests in

⁴For a detailed discussion of the laws that prohibit personal use of state resources, see Appendix B.

an online real estate information company, a real property management company, and a farm in another country. The supervisor stated that he is a passive partner in the online real estate information company and the real property management company.


The supervisor started his land survey business in or around 1989.

According to the supervisor, he started conducting land surveys for others in or around early 1989. The supervisor stated that he obtained a majority of his land survey business through word of mouth, but also indicated that he advertised in the local telephone directory.


The supervisor stated that customers interested in his services would call his home and leave a message for him. He explained that he then contacted the customers when he returned home. After these customers contacted him, he then arranged to have land surveys completed. The supervisor indicated that he recruited several department employees to assist him with the land surveys.

Although the supervisor stated that he did not use any state resources to conduct his outside businesses and advised department employees not to use any state resources when conducting the private land survey work, both the supervisor and, in some instances, the department employees, used state resources to conduct the work. For example, a former department employee told us that on two separate occasions in August 1995, the former employee and the supervisor met with an engineering firm located in another city during the supervisor's regular office hours to discuss a project that the supervisor had with the firm.⁵

We also found that besides his job at the department, the supervisor is also on the payroll of the engineering firm mentioned above. The engineering firm paid the supervisor a total of approximately \$3,938 in 1995. When we asked the supervisor why he was on the payroll of the engineering firm, he indicated that he did not know. However, he stated that he had provided land survey services by supplying his land survey work crew and equipment to the engineering firm.

Computers

The supervisor used his state computer to conduct business for personal gain. Specifically, the supervisor stored at least 615 computer files not related to state business on his state

⁵This former employee was no longer employed by the department at the time.

The supervisor kept his businesses' financial records on his state computer.

computer.⁶ Examples of the supervisor's business computer files include financial records of all his businesses; correspondence with his land survey clients and other correspondence related to his other businesses; and proposals, contracts, and legal descriptions and maps of properties related to his land survey business. In addition, the supervisor used two software programs on the state computer to access and download real property data obtained from commercial enterprises. Examples of his personal files include personal financial documents, personal correspondence, and documents related to a fraternal organization of which the supervisor is an officer.

In addition to storing non-state files on his state computer, the supervisor accessed his non-state files at least 13 times on state time from August 1989 through March 1990, while the supervisor was an hourly employee. In addition, the supervisor accessed these files during non-state hours at least 29 times during this period.

From April 1990 through September 1995, the supervisor was a nonhourly civil service employee. As a nonhourly civil service employee, the compensation he receives from the State is based on the premise that he is expected to work as many hours as necessary to provide the public services for which he was hired. As a result, we were unable to conclude that the employee conducted his personal business on "state time" for most of the period.

Nevertheless, the supervisor used a state computer to conduct his own businesses between April 1990 and September 1995. During this period, the supervisor used the state computer on at least 573 occasions to access files related to his outside businesses during his regular office hours and nonoffice hours.⁷ Specifically, he accessed files related to his outside businesses during his regular office hours at least 307 times during this period. Further, he accessed these files during nonoffice hours at least 266 times during the same period.

We identified the times and dates that the supervisor last worked on the files using a computer function known as "last modified."⁸ The "last modified" date represents only the most recent time the supervisor made a change to the individual files.

⁶These were files that were still on the supervisor's computer when we copied them in October 1995. We could not determine whether any files related to the supervisor's outside businesses were deleted by him before October 1995.

⁷The supervisor maintained regular hours at the office on Monday through Friday, from 7 a.m. to 3:30 p.m.


⁸The time and date on which a file was "last modified" is the time and date on the computer's internal clock when a file was closed after any changes were made to it.

It does not show how many times the supervisor worked on the files using the state computer or how long he spent working on each file. However, the supervisor spent at least some time working on files related to his businesses during his office hours. For example, a file on his state computer with a "last modified" date and time of 2 p.m. on August 31, 1995, shows a letter written by the supervisor on that same day to a client. The letter described the scope of the proposed land survey services and made reference to a telephone conversation the supervisor had with the client that same morning.


In addition to using his state computer to access and work on files related to his outside businesses, the supervisor also used his state computer as a facsimile machine to receive facsimiles for his outside businesses during his regular office hours. Examples of the facsimiles the supervisor received included real property information obtained through an automated facsimile system at a bank, descriptions of properties from some of his clients, and correspondence from his accountant about his businesses.

We found that the supervisor also sent state-computer-generated facsimiles related to his outside businesses during his regular office hours. Specifically, from August to December 1995, the supervisor sent facsimiles to his real property information online service company seven times, to his real property management company three times, and to an engineering firm he works for once.

Telephones



From his state telephone, the supervisor placed at least 827 calls lasting approximately 40 hours that were unrelated to state business.



The supervisor also made telephone calls related to his outside businesses at the State's expense. We reviewed telephone records originating from the state telephone assigned to the supervisor for the periods from June through August 1995 and from February through May 1996. We also reviewed records of the supervisor's calls from a state cellular telephone for the period from February through April 1996. During these periods, the supervisor placed at least 827 calls lasting approximately 40 hours that were not related to state business. The supervisor placed these personal and business calls on 127 separate days. The total cost of all these calls was approximately \$130. Although the cost to the State of misusing the state telephones is minimal, the total cost of the misuse of state telephones can be high when considering the cost of time spent on personal business while an employee should be working.

The supervisor also received calls related to his outside businesses at his office during regular office hours. We were not able to determine how many calls the supervisor received that were related to his outside businesses. However, a former department employee who worked with the supervisor on one of his private surveying projects called the supervisor at his state office several times during regular office hours regarding the project. Further, on at least a few occasions, the supervisor also listed his state pager number for others to contact him regarding his outside businesses.

State Employees

The supervisor also used state employees to conduct his land survey business. Specifically, since 1989, at least 24 department employees and student assistants assisted the supervisor in his land survey business for pay. At least two of the employees who worked for the supervisor's private business used state resources to do the work. Specifically, a former department student assistant stated that on a few occasions, he printed preliminary plots of properties surveyed for the supervisor using state equipment during his lunch and break periods. The former student assistant then sent them to the supervisor at his home using a state facsimile machine.

Other department employees worked for the supervisor's private business using state resources.

A second employee who works under the supervisor at the department also used state time and equipment to perform work related to the supervisor's land survey business. The employee admitted that he had used a state computer on his lunch breaks to review design and map files related to land surveys he conducted for the supervisor. These files were stored on computer diskettes provided to him by the supervisor. The employee also stated that the supervisor had sent to his state computer some design and map files for his review.

The employee stated that when the supervisor needed him to help on an outside land survey, the supervisor would generally call him at home to determine if he was available to work on the weekends. Although the employee stated that he helped the supervisor when he was able to obtain leave from work from his immediate supervisor, we found that on one occasion, September 15, 1996, the employee went with the supervisor in the afternoon to work on a land survey in Burbank on state time, without taking leave.

***Second Employee Used State Computers
for Other Personal Benefit***

The employee also used state resources for other personal benefit. Specifically, the employee used his state computer on state time to engage in discussion groups through an online service, download adult materials through the online service, and access outside work files on at least 110 occasions from February 1995 through October 1995.

Conclusion

A supervisor at the Los Angeles Engineering Services Branch within the Department of Transportation used state resources to conduct his outside businesses since 1989. He used state time, computers, telephones, and employees to conduct his businesses. In addition, a second department employee also used state resources for his personal benefit.

Agency Response

The department has not completed its corrective action.

Chapter 3

Department of Social Services: False Travel Expense and Attendance Claims

Allegation 1960019.2

An employee allegedly submitted false travel expense claims to the Department of Social Services (department).

Results of Investigation

The employee improperly claimed higher mileage rates, could not support lodging expenses, and charged unnecessary meal and incidental expenses.

We investigated and substantiated this allegation and other improper governmental activities by the employee. The employee filed travel expense claims for miles that she did not drive in her personal vehicle. Also, the employee improperly claimed a higher mileage reimbursement rate than she was entitled to receive, resulting in an overpayment of \$2,842. In addition, the employee claimed lodging expenses of \$4,623, but refused to provide us with any information on the lodging facility. Further, the employee claimed at least \$629 for unnecessary meal and incidental expenses. Finally, the employee did not work at least 36.75 of the total hours claimed on her time sheet.

To investigate the allegation, we reviewed applicable state regulations and department policies for travel expense reimbursement.⁹ Also, we reviewed the employee's travel expense claims from January 1994 through April 1996, her travel itineraries, and the reports she prepared for each of the facilities she visited. We also interviewed the facility staff visited by the employee to determine the time that the employee was at their facility. Further, we reviewed the documents submitted by the employee on the costs of operating her personal vehicle. We also reviewed the employee's monthly time sheets for February and March 1996. We also interviewed several department employees.

We interviewed the employee twice to discuss our concerns about her travel expense claims and her time sheets. After each meeting, we gave a written statement to the employee that

⁹For a description of the laws and regulations governing expense claims, see Appendix B.



summarized the significant issues discussed. We asked her to review the statements to ensure their accuracy. We also asked her to certify under the penalty of perjury that the statements were true and correct. In both instances, the employee refused to certify that the statements were true and correct.

Background

The employee works in the department's Community Care Licensing Division. This division oversees the licensing of child day care facilities in California, which provide children with nonmedical care and supervision for less than 24 hours a day. If the licensee meets all of the requirements, including having an adequate facility and adequately trained personnel, the department issues a license. Also, the department conducts visits or inspections of a facility to ensure compliance with all licensing regulations.

The department's Sacramento office assigns evaluators, including the employee, to child day care facilities in areas of the State outside their Sacramento office. When traveling on behalf of the State, evaluators are reimbursed for certain travel expenses, such as lodging, meals, and mileage (when they use their personal vehicles). However, the State will only reimburse the evaluator for actual travel expenses up to a maximum amount for each type of expense. To receive a reimbursement, the evaluator must submit a travel expense claim to the department and must certify in writing that these expenses were incurred on state business.

The Employee Filed False Travel Expense Claims


The employee claimed that she drove 980 miles on behalf of the State over two months, but she did not drive them.


The employee claimed mileage reimbursements that she was not entitled to receive. Specifically, during February and March 1996, the employee claimed that she drove 3,690 miles in her personal vehicle on state business. However, based on a review of the facilities she visited and their locations, she falsely claimed reimbursements for 980 miles that she did not drive on state business. This represents nearly 27 percent of the miles she claimed for the two-month period. As a result, the employee improperly received nearly \$300 that she was not entitled to receive.

For example, the employee claimed that she drove one 288-mile round-trip from Sacramento to Modesto. During this trip, the employee visited four facilities in the same 3-square mile general area of Modesto. Even allowing 8 miles between

each facility, we calculated the round-trip mileage for this trip to be no more than 188 miles, or at least 100 miles less than the miles claimed by the employee. These 100 miles represent a false travel claim of \$30 for one trip. During February and March 1996, the employee claimed miles that she did not drive for 12 of 13 trips made.

There is further evidence that the employee falsely claimed more mileage than she actually drove. Specifically, repair invoices indicating odometer mileage for the employee's vehicle show that she could not have driven the miles she claimed on state business. For example, a repair invoice, dated March 19, 1996, shows the vehicle mileage as 184,467. On another invoice, dated April 5, 1996, the mileage was 186,029. The total mileage driven between the two dates was 1,562 miles. During this 17-day period, the employee claimed that she drove her vehicle 1,528 miles on state business, leaving only 34 miles for personal mileage. However, as described below, the employee had to have driven at least 285 miles on personal business during this period.

When the employee worked at her Sacramento headquarters, she commuted in her personal vehicle. Employees generally cannot receive mileage reimbursement for commuting between their home and headquarters. In addition, when a business trip begins or ends at an employee's home, the State reimburses the employee for the distance traveled from the state office or the employee's home, whichever is the lesser distance. During the 17-day period, the employee traveled on state business for 6 days,¹⁰ worked in the office for 4 days, and had 7 nonwork days.

It is approximately 19 miles one way or 38 miles round-trip from the employee's home to her Sacramento office. Because of the location of the employee's home relative to her assigned area of the State, the lesser mileage would be to or from the state office; she is not entitled to claim the 19 miles driven to or from her home even when those miles were driven immediately before or after business trips. Consequently, the employee's commute mileage was at least 285 miles during the 17-day period—251 miles more than the 34 miles that would have been possible, according to her travel expense claim. These 251 miles are 16.4 percent of the 1,538 miles she claimed during the 17-day period.

¹⁰On two days during this period, when the employee worked in the office, she started a business trip near the end of a workday.

Because of the amount of time required to investigate each trip made by the employee, we only reviewed in detail the travel expense claims for 2 of the 28 months from January 1994 through April 1996. However, for the 28 months, the employee claimed that she drove nearly 47,400 miles on state business and received mileage reimbursements of over \$14,200.

The Employee Improperly Claimed a Higher Mileage-Reimbursement Rate

State regulations allow an employee to claim a mileage-reimbursement rate of up to 30 cents per mile if the employee certifies in writing that the cost of operating a vehicle was equal to or greater than the maximum allowed rate. The standard reimbursement rate of 24 cents per mile does not require this type of certification. If a higher rate is claimed, the employee should retain sufficient documentation of expenses to justify this higher rate.

In her claims for mileage reimbursement, the employee claimed 30 cents per mile, the highest reimbursement rate allowed. However, the employee could not substantiate the higher rate with documentation to prove that the cost of operating her vehicle was equal to or greater than 30 cents per mile. From January 1994 to April 1996, the employee claimed that she drove her personal vehicle 47,373 miles on state business. Based on the difference between the standard rate of 24 cents and the 30-cent rate claimed by the employee, the employee claimed \$2,842 in mileage reimbursement that she was not entitled to receive. In addition, as discussed in the previous section, the 47,373 miles claimed by the employee appeared to be significantly overstated.

Other Questionable and Unnecessary Travel Expenses

The employee claimed lodging expenses totaling \$4,623 for 185 occasions between January 1994 and April 1996. However, we believe these expenses were questionable.

State regulations permit reimbursement for actual and necessary out-of-pocket expenses incurred by state employees during travel on state business. For example, the State reimburses employees for actual lodging expenses up to certain maximums. When an employee of the department does not have a receipt, the State is only obligated to reimburse him or her up to a maximum of \$24.99 per night for actual expenses.

The employee claimed lodging expenses of \$24.99 per night on 185 occasions between January 1994 and April 1996 for a total of \$4,623. However, we believe these expenses were

Although the employee claimed that she stayed with a relative while traveling on behalf of the State, she would not tell us who or where the relative was.



questionable. When we asked the employee about the lodging reimbursements, she told us that she stayed at a relative's home in San Joaquin County. However, the employee refused to certify under the penalty of perjury that she stayed at a relative's home. Moreover, the employee refused to provide us with the name of the relative. Also, the employee refused to provide us with a description of the relative's home, such as the color of the home or the number of bedrooms in the home. The employee claimed that the relative did not want to release his or her name or other information. The employee told us that she considers the name of the relative and the description of the home confidential information. This is not a credible explanation for her refusal to provide us the information on the relative or his or her home, especially since a description of the relative's home does not compromise the relative's privacy.

Further, we believe that many of the lodging expenses claimed by the employee were not necessary. Specifically, from January 1994 through April 1996, the employee began her business trips between 2 p.m. and 6 p.m. on 102 occasions. For 38 of the trips taken from June 1995 through April 1996, we compared the employee's travel expense claims to her itineraries to determine whether she made site visits on the days she began her trips. According to her itineraries, the employee made no such site visits on 31 of the 38 days. Most of the facilities assigned to the employee are no more than 75 miles from the employee's Sacramento office, or within a drive lasting 1.5 hours. As a result, we believe that it was unnecessary for the employee to travel on state business the night before her work began and that the \$775 she received for lodging on those days was unnecessary and not in accordance with the regulations.

Furthermore, for 17 of the 31 trips when she made no site visits on the first day of travel, the employee returned on the second day of the trip. Because the employee claimed that she was gone for 24 hours or more on these 17 trips, she was able to claim reimbursement for meals and incidentals at \$37 per day. Again, because we believe that it was unnecessary for the employee to travel the day before she began her work, we believe that the \$629 she received for meals and incidentals during these 17 days was unnecessary and not in accordance with the regulations.

***The Employee Did Not Work the
Number of Hours Claimed***

Each month, the employee submitted a report titled "Absence and Additional Time Worked" (time sheet), which showed the number of hours worked each day or claimed as sick leave or vacation. The employee certified in writing that to the best of her knowledge, the hours worked were correct and in complete compliance with legal requirements. During February and March 1996, the employee worked an alternative work schedule that the department approved. This schedule authorized the employee to work the following hours and days over a two-week period: 9 hours per day for eight weekdays, 8 hours for one weekday, and one weekday off. The employee's off day was every other Monday. In addition, according to the employee's approved schedule, she was to start work at 7 a.m. each workday.


*The State paid the
employee \$850 for hours
she did not work.*


While on travel status, the employee did not work at least 36.75 of the number of hours she claimed during February and March 1996.¹¹ As a result, the State paid the employee at least \$850 for hours she did not work. In total, the employee did not work the required hours on 13 of the days she spent traveling for the department. For example, on March 13, 1996, we could only account for 6.5 hours worked of the 9 hours reported. According to the licensees inspected on that day, they estimated that she was at the facilities for a total of 3.5 hours. On the same day, she also attempted to visit another licensee but was not successful. We estimate the time for this attempted visit to be no more than 1 hour since the facility location is close to the other facilities visited that day. Also, we estimated that her travel home took 2 hours. We could not account for the remaining 2.5 hours for which the State paid her just \$56.

The department's Children's Day Care Evaluator Manual requires its employees to include the time that their visit began at a facility and the time their visit ended on licensing forms. However, contrary to department policy, the employee rarely provided this information on licensing forms.

¹¹We only reviewed the number of hours worked by the employee for two months. As a result, we do not know if she overstated the number of hours worked in other months.

Conclusion

The employee filed travel expense claims for miles that she did not drive in her personal vehicle. Also, the employee improperly claimed a higher mileage-reimbursement rate than she was entitled, resulting in an overpayment of \$2,842. In addition, the employee claimed questionable lodging expenses of \$4,623, but refused to provide us with any information on the lodging facilities. Further, she claimed at least \$629 in reimbursements for unnecessary meal and incidental expenses. Furthermore, the employee did not work the number of hours claimed on her time sheet during February and March 1996. As a result, the State paid the employee at least \$850 for 36.75 hours she did not work.

Agency Response

After the department received our report and reviewed our documentation, the employee provided additional information to the department. Because the department is continuing its own investigation into the matter, it has not completed its corrective action.

Chapter 4

Department of General Services: Improper Claims for Reimbursement

Allegation I960025

A manager of the Department of General Services' (DGS) Division of the State Architect overclaimed travel reimbursements, relocation expenses, and licensing fees.

Results of Investigation

—◆—
A manager received
\$1,238 in improper
reimbursements.
—◆—

The DGS audit section investigated and substantiated that the manager erroneously claimed reimbursements of \$184. After the DGS completed its investigation, we reviewed its investigative files and performed additional investigative fieldwork to determine the extent of the improper activities. We confirmed the DGS findings and substantiated additional improper reimbursements of \$1,054. In total, the manager improperly received \$1,238. As of September 25, 1996, the manager had repaid the DGS \$224 of this amount.

To investigate the allegations, we reviewed the applicable state regulations and policies, and the DGS audit report and working papers.¹² In addition, we examined personnel files and travel expense claims, including those related to the manager's relocation. We also examined records from the California State University, Long Beach Foundation (foundation), where the manager teaches classes. Finally, we interviewed the DGS staff who conducted the audit, other DGS employees, and the manager.



The Manager Overclaimed Travel Expenses

The DGS found several instances in which the manager claimed reimbursements in error. These included lodging and incidental expenses of \$104 that he claimed for an overnight stay that was personal rather than state business. In addition, we found the manager claimed and received \$145 in reimbursements from

¹²For a description of laws and regulations concerning claims for reimbursement of travel expenses, relocation expenses, and fees for professional licenses, see Appendix B.

both the DGS and the foundation for the same expenses. We also found that the manager improperly claimed travel reimbursements totaling approximately \$328 for trips taken from January 1995 through February 1996. As of September 25, 1996, the manager had repaid the DGS \$144 for these improper reimbursements.

***The Manager Claimed and Received
Reimbursement for the Same Expenses
From Two Separate Entities***


*The manager submitted
the same receipts to the
State and a foundation to
receive \$145 in duplicate
payments.*


In addition to his position with the State, the manager teaches classes at California State University, Long Beach (CSULB) through its continuing education program. He teaches these classes on Saturdays approximately three times a year and is paid through the foundation, which also pays his expenses. In July 1995, he combined a business trip for the DGS and a teaching assignment in Long Beach during a visit to Southern California. Although he presented the class during nonwork hours, he claimed and received approximately \$145 for the same travel expenses from both the DGS and the foundation.

The manager improperly claimed and received double reimbursement for an airline ticket for a July 1995 round-trip between Sacramento and Orange County. This ticket was a companion ticket that cost \$166. He submitted the round-trip ticket to the foundation as part of his bill for teaching a seminar at CSULB on July 22, 1995, and received a reimbursement of \$166. In addition, he included a copy of the same round-trip companion ticket with his travel claim to the State, but stated that he was requesting \$102 for his portion of the ticket. The DGS paid the manager \$102 for this ticket.

Further, the manager requested and received from both the foundation and the DGS a reimbursement of \$10 for airport parking fees, \$15.80 for dinner, \$5 for gasoline, and \$12 for mileage to and from the Sacramento airport. The manager submitted copies of the same receipts to both entities as support for the parking and gasoline expenses.

***The Manager Overclaimed Meal
Reimbursements in 19 Instances***

The applicable department guidelines state that on the first day of travel on a trip of 24 hours or more, an employee may claim breakfast if the trip begins one or more hours before the employee's regularly scheduled workday. The employee may

claim dinner on the last day of travel if the trip ends at or after 7 p.m. If the trip lasts less than 24 hours, the employee may claim breakfast if the travel begins one or more hours before the regularly scheduled workday and may claim dinner if the travel ends one or more hours after the regularly scheduled workday. Employees are to claim only their actual expenses, but are limited to the following maximums: breakfast, \$5.50; lunch, \$9.50; and dinner, \$17.

—◆—
Over 13 months, the manager claimed \$239 more in meal expenses than allowed.
—◆—

From January 1995 through February 1996, the manager improperly claimed reimbursement for meals in 19 instances. As a result, he received approximately \$239 more than he should have. These reimbursements were improper because the manager claimed either a breakfast expense even though he left later than one hour before his regularly scheduled workday or a dinner expense even though he returned too early to be eligible for reimbursement.

Overclaimed Mileage Reimbursements

Contrary to state regulations, the manager improperly claimed reimbursement for mileage from his home instead of his office—the lesser distance—in 14 instances from January 1995 through February 1996. This resulted in overpayments totaling approximately \$33.

Improperly Claimed Miscellaneous Expenses

From January 1995 through February 1996, the manager improperly claimed and received reimbursements totaling approximately \$56 for miscellaneous travel expenses. These improper reimbursements consist of the following:

- One instance in which the manager claimed \$6 for gas and used a rental car paid for by the State even though he was not on travel status;
- Two instances in which the manager overclaimed \$20 for noncommercial lodging;
- One instance in which the manager overclaimed \$25 for lodging expenses; and
- One instance in which the manager claimed a \$5 reimbursement for incidentals even though he was not on travel status for 24 hours.

The Manager Claimed Excess Relocation Expenses

Whenever a state employee is required by the State to change his or her residence because of a reassignment, a promotion, or any other reason related to the employee's state duties, the employee is entitled to reimbursement for certain expenses.

—◆—
Even though records show the manager had moved into his house, he claimed an additional \$580 in relocation expenses.
—◆—

The manager was eligible to claim the relocation reimbursements because he was promoted and his headquarters changed to Sacramento. He claimed 59 days of the relocation reimbursements from September 2 through November 10, 1993, at \$116 per day. However, the manager's telephone and water services were established at his new residence on November 2, 1993, and a moving company delivered his furnishings on November 4, 1993. As a result, he was not entitled to the relocation reimbursement after November 4, 1993. Because the manager claimed reimbursement for an additional five days through November 10, 1993, he received \$580 more than he was entitled to receive. He was able to receive the incorrect amount because the DGS employee reviewing the relocation claim incorrectly used the billing date from the manager's telephone and water bills as the date of establishment of permanent residence.

The Manager Overclaimed a Reimbursement for Professional License Fees

Under certain circumstances, state regulations permit the reimbursement of professional license fees. In June 1994, the manager paid \$240 for the renewal of his professional license. Of this amount, \$80 was a late fee. On August 3, 1994, the manager submitted a claim to the DGS and received reimbursement for the \$240. Because the manager had paid the fee within the required period, the licensing board refunded the late fee of \$80 to the manager on August 17, 1994. Because the State had previously reimbursed the manager for this fee, he should have repaid the \$80 to the State. However, the DGS reported that the manager said he had not been aware that he had received a refund of \$80 from the licensing board until the DGS investigation. The manager reimbursed the State the \$80 in February 1996.

Conclusion

A DGS manager overclaimed travel reimbursements, relocation expenses, and licensing fees. As a result, he received approximately \$1,238 more in reimbursements from the State than he was entitled to receive.

Agency Response

As a result of its own investigation, the DGS cautioned the manager to obtain and keep receipts, and alerted its accounting offices that employees cannot be reimbursed without receipts for some expenses. The DGS also advised its accounting offices to insist on complete explanations of receipts and to ensure that the receipts filed with the travel claims can be effectively matched against the travel expense claim.

The DGS reported that it will collect \$393 from the manager as a result of our additional findings. Because the regulations in effect at the time the manager traveled were ambiguous concerning entitlements under certain travel circumstances, the DGS did not agree that it was entitled to collect all of the travel expenses we identified. In addition, because so much time had elapsed since the manager's relocation, he was unable to provide evidence of when he moved into his new residence. Further, because the regulations allow departments some discretion in allowing relocation expenses, the DGS concluded that it would not collect the \$580 in relocation expenses we identified as improper.



Chapter 5

Department of Social Services: Improper Acceptance of Gifts From a Licensee

Allegation I960019.1

An employee allegedly received gifts from a licensee whose activities are regulated by the Department of Social Services (department).

Results of Investigation


*An employee improperly
accepted ski-lift tickets
from a day care
licensee.*


We investigated and substantiated the allegation. To investigate the allegation, we reviewed applicable state laws that prohibit employees from accepting gifts. We also reviewed the department's policy on incompatible activities and its prohibition against accepting gifts. In addition, we reviewed the reporting requirements for gifts in the Political Reform Act of 1974. Finally, we interviewed several department employees.

Contrary to state law and department policy, the employee accepted free ski-lift tickets from a licensee of the department on two different occasions.¹³ Specifically, the employee accepted two ski-lift tickets in 1993 and one ticket in 1994. The estimated value of the ski-lift tickets is \$25 each, or a total of \$75. The department regulates the licensee, who operates a child day care center at a ski resort. Also, contrary to law, the employee did not report the gifts on her annual Statement of Economic Interest.

According to the employee, the ski resort manager provided the complimentary ski-lift tickets after the employee completed her licensing inspections. Although the employee, in retrospect, told us that she should not have accepted the free tickets, she stated that her acceptance of the free tickets did not affect or influence her evaluation of the day care center at the ski resort. The employee also stated that she cited the facility for every

¹³For a description of the laws concerning acceptance of gifts and the requirement for reporting gifts, see Appendix B.

deficiency found during the evaluations for both 1993 and 1994. In fact, the employee cited several deficiencies at the day care center in both of those years.

The employee told us that she is aware that there are state laws and department policies concerning the acceptance of gifts, but she was unfamiliar with the specifics of the policies. However, her supervisor told us that in December 1993, he specifically remembers telling the employee that accepting free ski-lift tickets is not allowable since it represents a gratuity.

In addition, the employee did not report the two ski-lift tickets, totaling \$50, as gifts on her 1993 Statement of Economic Interest. She was not required to report the one ski-lift ticket, valued at \$25, in 1994 because it was below the reporting threshold. The employee told us that she did not report the gifts since she did not feel there was a conflict of interest. Also, the employee stated that she was not specifically aware of the conflict-of-interest provisions of state law and the department's policy.

Agency Response

The department suspended the employee for one week without pay.

Chapter 6


40th District Agricultural Association: Violations of Personnel Rules and Incompatible Activities

Allegation I960072


An employee of the 40th District Agricultural Association (district) allegedly supervised his son at a county fairground for six months each year for at least the past five years. Additionally, the employee's son allegedly stored and used personal woodworking equipment on the fairground.

Results of Investigation

The Department of Food and Agriculture (department) investigated and substantiated the allegations. To investigate the allegations, the department reviewed personnel documents, performed inspections of certain areas of the fairground, and interviewed the subjects of the allegations as well as other district employees.



A district employee supervised his son and allowed him to store and use personal property on the fairground.



Department policy prohibits direct supervision of an employee with whom the supervisor has a personal relationship. It requires managers to evaluate situations involving nepotism and to take corrective action when appropriate. Because the supervisory position between the employee and his son was vacant, it appears that the employee supervised his son in violation of department policy.

In addition, state law prohibits employees from using their position in the State for private gain or advantage. The employee confirmed that his son stores woodworking equipment on the district's fairgrounds. According to the employee, the fair has a "service in kind" contract with the employee's son. The contract's terms allow the son to store his equipment on the fairgrounds in return for volunteer hours the son provides to the district. However, the storage and use of privately owned equipment may subject the district to unnecessary liabilities should any injury or property damage occur. In addition, the employee should not enter into

contracts with family members on behalf of the district without going through the formal approval process for awarding contracts.

Agency Response

The department recommended that the district clearly document the line of supervision over the employee's son when the normal supervisory position is vacant. Furthermore, the department recommended that the employee should not allow his son to store personal equipment on the fairgrounds.



Chapter 7

Department of Water Resources: Misuse of State Computers and Telephones

Allegation I960098

An employee at the Department of Water Resources (department) allegedly used her state computer for personal gain and placed personal telephone calls at the State's expense.

Results of Investigation


All of the 82 Internet files accessed by the employee from her state computer over five days were for her personal benefit.


We investigated and substantiated the allegation. During five days in December 1996, the employee accessed 82 different files on the Internet, all for personal use. In addition, from January through August 1996, the employee placed at least 822 personal telephone calls lasting more than 41 hours and 25 minutes from her state telephone, costing the State \$55.¹⁴

To investigate the complaint, we reviewed the employee's attendance records and files stored on the state computer assigned to the employee. We also reviewed records of telephone calls originating from the state telephone assigned to the employee from January through August 1996. Finally, we interviewed the employee and the employee's supervisor.

Employee Misused Her State Computer

State laws prohibit state employees from using state resources for their personal benefit. We were unable to determine how much time the employee spent conducting personal business from her state computer. However, from December 5 through December 13, 1996, the employee used her state computer to access the Internet on five different days. During those five days, the employee accessed 82 files; all of the files were for the employee's personal use, including files related

¹⁴Descriptions of laws concerning personal use of state resources and incompatible activities, such as using the State's prestige to obtain discounts, can be found in Appendix B.

to the employee's outside business. On one of these days, the employee accessed a total of 34 files between 11:08 a.m. and 4:14 p.m.

In addition, as part of her outside business, the employee has her own Internet home page where visitors can leave electronic mail messages. The employee told us that she loaded her personal Internet software on her state computer to access her personal electronic mail messages from her state computer. The employee told us that she used her own Internet software instead of the Internet software purchased by the department in an effort to avoid using state resources for personal business. However, by doing so, the employee provided clear evidence that she knew it was improper to use state resources to conduct personal business. The employee told us she removed her personal software from her state computer after she became aware of our review.

Employee Misused Her State Telephone

We identified 822 personal calls placed during January through August 1996 from the state telephone assigned to the employee. These 822 calls, placed on 139 different days, lasted 41 hours and 25 minutes and cost the State approximately \$55. Because of personal difficulties, some of these calls may have been for personal emergencies. However, the employee also made at least 254 calls, lasting a total of 17 hours and 29 minutes, related to her outside business. For example, she placed 181 calls, lasting a total of 13 hours and 58 minutes, to her business representative.

Conclusion

The employee used her state computer to access the Internet and her personal electronic mail. In addition, from January through August 1996, the employee placed 822 personal calls costing \$55 on the state telephone assigned to her.

Agency Response

The department formally reprimanded the employee and asked her to reimburse the State for the cost of her personal calls. In addition, the department will restrict the employee's access to the Internet and will review her telephone usage in the future. The division in which the employee works also has removed all

programs and files unrelated to state business from division computers. Finally, the division has reiterated the department's policy regarding use of state time and equipment to all its employees.

Chapter 8

Department of Social Services: Improper Procurement of Interpretation Services

Allegation I950158

The Department of Social Services' (department) Disability Evaluation Unit improperly selected vendors for language-interpreter services. Specifically, the department used some firms for interpreter services significantly more often than it used other qualified firms.

Results of Investigation

The department investigated the allegation and found that the Disability Evaluation Unit was not rotating the selection of vendors among the qualified interpreting service firms according to its policy. The department uses vendors to translate for non-English-speaking applicants for various federal disability benefits. The department administers these federal programs under contract with the federal Social Security Administration.

Contrary to policy, the department used some firms significantly more often than other qualified firms.

The department has a policy to rotate vendors for interpreting services among qualified firms to the extent possible. Prior to late 1993, the department used a computer system to select vendors. The computer system automatically rotated vendors selected. However, in late 1993 the department installed a new computer system that is incapable of rotating vendor selection. This computer system was purchased and installed by the federal Social Security Administration.

After this computer system was installed, some department staff apparently believed that the department's policy on vendor rotation had changed because such a rotation was not built into the system. Additionally, department staff were judgmentally selecting vendors. As of October 1996, there was no way to know which vendor had been chosen by another staff person. As a result, the department was not selecting vendors on a rotational basis and some vendors were receiving a disproportionate share of the State's business.

Agency Response

The department reissued vendor-selection guidelines to its staff that emphasize fairness in the vendor-selection and usage rotation. This should provide a stronger guarantee of fairness in future selections and use of interpreting firms.

Chapter 9

Misuse of the State's Electronic Mail

Chapter Summary

We received a complaint that employees of several state departments—the Department of Finance, the State Controller's Office, the Board of Equalization, the Franchise Tax Board, the Department of Health Services, and the Public Employees' Retirement System—abused the State's electronic mail (e-mail) system. We obtained copies of e-mail messages sent by one Department of Finance employee to 12 other state employees. These messages were religious in nature and were sent on three consecutive weeks in May 1996. The messages also forwarded information about a weekly Bible study group from an employee of the State Controller's Office. The Bible study group met weekly in a conference room at the State Controller's Office.

We sent copies of the e-mail messages to the various departments and asked them to investigate on our behalf.

Department of Finance Allegation I960196

The Department of Finance (DOF) counseled its employee who originated the e-mail correspondence on the acceptable use of state resources and reminded her of the DOF's e-mail policies. The DOF's policy states that e-mail can only be used for exchanging communication and information related to official state tasks. The DOF also reminded its other employees of its e-mail policy.

State Controller's Office Allegation I960198

The State Controller's Office (SCO) concluded that its employee had abused the State's e-mail system by sending personal messages. The SCO conducted a corrective interview with the employee, who acknowledged that his e-mail activities were inappropriate. In addition, although the employee had the tacit approval of his division management to use the conference

room for weekly Bible studies during the lunch hour, the employee agreed to stop using SCO facilities. The SCO reported that, consistent with existing policies, the SCO will not approve requests for such use of its facilities in the future. The SCO will also monitor the employee's work-time activities and job performance to ensure that the employee devotes his full attention and efforts to his job during work hours.

***Franchise Tax Board
Allegation I960197***

The Franchise Tax Board (board) concluded that two of its employees had received the e-mail messages. However, the board concluded that the amount of time spent receiving and reading the messages was nominal and incidental to the employees' regular review of incoming e-mail. In addition, the employees' supervisors reported that each of the employees has an excellent work record. The board also cited a recent federal court decision upholding an employee's right to post religious statements in the workplace. As a result, the board concluded that the employees' actions in receiving nonwork-related e-mail did not warrant corrective discipline and that no corrective action to block receipt of incoming messages appeared appropriate or required.

***Department of Health Services
Allegation I960193***

The Department of Health Services (DHS) investigated and substantiated the allegation. Specifically, the DHS found that, over a two-month period, its employee received and forwarded some nonwork e-mail messages. The DHS will discuss the appropriate use of e-mail with the employee and with other employees at a staff meeting.

***Board of Equalization
Allegation I960194***

The Board of Equalization has not completed its review of the allegation.

***Public Employees' Retirement System
Allegation I960195***

The Public Employees' Retirement System (PERS) was unable to determine that its employee received or read the e-mail message. However, the PERS will develop an e-mail policy that specifies acceptable and unacceptable use, will place a message on its e-mail system reminding staff that use of the system is for official state business, and will counsel the employee regarding the proper use of the e-mail system.

Chapter 10



Update on Previously Reported Issues

Chapter Summary

Under provisions of the Reporting of Improper Governmental Activities Act, an employing agency or appropriate appointing authority is required to report to the state auditor any corrective action, including disciplinary action, that it takes as a result of a state auditor's investigative report no later than 30 days after the date when the investigative report is issued. If it has not completed its corrective action within 30 days, the agency or authority must report to the state auditor monthly until the action is complete.

This chapter summarizes corrective actions taken by state departments and agencies since we reported related investigative findings in September 1996. It also summarizes conflicts of interest on the part of a former employee of the Department of Motor Vehicles (DMV). These conflicts of interest were originally identified during an audit of the DMV's database redevelopment project.

Department of General Services Allegation 1950098


The Department of General Services reduced the salary of a supervisor who stole at least \$2,200 in computer parts by 10 percent for six months.


We reported on September 16, 1996, that a supervisor of the Department of General Services' (DGS) Office Machine Repair Service (OMRS) stole at least \$2,200 in new computer parts from the OMRS and used these stolen parts to build computers that he sold to individuals and businesses.¹⁵ Because of insufficient documentation, we were unable to determine whether the supervisor stole more than \$2,200 in equipment. However, since 1992, the supervisor sold at least \$22,000 worth of computers and computer parts. The supervisor also appears to have violated the State's conflict-of-interest and incompatible-activities laws by both favoring a computer vendor who supplied computer parts to the OMRS and accepting payments from him. The supervisor also gave used computer parts belonging to the State to this vendor.

¹⁵A description of the laws concerning theft can be found in Appendix B.

We also reported that the OMRS has inaccurate inventory records because it lacks internal controls over its inventory of office equipment parts. As a result, the OMRS cannot adequately safeguard state assets nor consistently identify and prevent errors, irregularities, or illegal acts.

Agency Response

The supervisor told the DGS that he did not steal computer parts, but that he borrowed new parts from the OMRS' stock for personal use. He claimed that he subsequently replaced the parts. However, the supervisor could not provide any documentation or witnesses to support his claims. As a result, the DGS reduced the supervisor's salary by 10 percent for six months and issued a letter of reprimand to him. The DGS also removed some of the supervisor's responsibilities, such as oversight of purchasing and supervision of staff responsible for parts inventory. The DGS reported that its decision regarding action taken concerning the supervisor was influenced by the fact that the supervisor has worked for the State for over 20 years and that he "has been an excellent employee." The DGS did not address the supervisor's apparent violation of conflict-of-interest and incompatible-activity statutes.

In addition, the DGS contracted with a consultant to review the OMRS' operations, including the inventory system used for parts. The DGS expects the consultant to make recommendations concerning the accountability and control issues noted in our investigation.

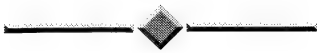
***Department of Education
Allegation I940262***

We reported the results of this investigation on September 9, 1996. We reported that a manager of the California Department of Education (CDE) improperly managed the funds of a statewide student vocational club under the CDE's jurisdiction and the funds of a charitable corporation that received payments from CDE contracts. Specifically, the manager illegally paid more than \$44,100 of personal expenses out of funds from the California Association of Vocational Industrial Clubs of America Leadership Foundation (foundation) and California Association of Vocational Industrial Clubs of America (CAVICA). He also submitted false claims that resulted in improper payments totaling over \$17,745 for travel expenses,


and illegally exchanged at least \$4,100 in airline tickets purchased with federal funds for other tickets used for personal trips, among other improper activities.

We also reported that the manager and other CDE employees circumvented state policies and controls by using fiscal agents to pay \$37,480 for services not received, to purchase more than \$76,000 in services and computer equipment without obtaining competitive bids, and to pay over \$13,500 for travel expenses not allowed by state regulations and policies. Further, one of these employees misappropriated \$1,800 of state funds.

Agency Response



The manager retired from state service.



The manager retired from state service, effective August 8, 1996. As reported earlier, the CDE strengthened controls over program operations to ensure compliance with laws and regulations and replaced the chain of command responsible for vocational service organizations. After reviewing our working papers, the CDE identified additional improper activities by a different employee who misappropriated \$1,800 and is currently pursuing an adverse action against that employee. In addition, the CDE has recovered over \$63,000 from one fiscal agent and has billed another fiscal agent for over \$12,000.

Department of Motor Vehicles Allegation 94107.2

In 1994, the Joint Legislative Audit Committee requested the Bureau of State Audits (bureau) to perform a comprehensive audit of the Database Redevelopment (DBR) project at the DMV. The bureau conducted the audit and, in August 1994, presented its audit report titled *"The Department of Motor Vehicles and the Office of Information Technology Did Not Minimize the State's Financial Risk in the Database Redevelopment Project."* During the audit, there were concerns that the actions of an official at the DMV, in connection with the DBR project, may have violated provisions of state law related to conflict of interest.

The Official Violated Conflict-of-Interest Laws

According to the stipulated agreement signed by the official with the Fair Political Practices Commission (FPPC), the official acknowledged that he had violated state laws.¹⁶ Specifically, after leaving state service, the official violated one state law when, for compensation, he represented the DBR project's main contractor (contractor) by attending the DMV's meetings on the DBR project and writing letters to the DMV's Electronic Data Processing (EDP) Division's management. The intent of the letters was to influence the DBR project, the same proceeding in which he participated while he was an official at the DMV. Further, after leaving state service, he violated another state law when, for compensation, he assisted in representing the contractor before the DMV in the DBR project.

The Role of the Official at the DMV

—◆—
An official substantially involved in the DBR project went to work for the contractor while on leave from DMV.
—◆—


According to the FPPC, the official was substantially involved in almost all aspects of the DBR project from the inception of the DBR project in 1987 until he was promoted to the headquarters operations division in March 1989. The official took paid annual leave from the DMV from October 15 to December 30, 1990, to work for the contractor as an advisory project manager. In addition, the official took a leave of absence from the DMV from January 1991 to December 1991 while he was working for the contractor. According to the DMV, the official was not permanently separated from the DMV while he was on leave from the DMV. However, the FPPC disagreed and considered the official separated from state service while he was on leave from the DMV. The official left the employment of the contractor in January 1992, and in the same month he was reinstated to state service at the DMV. In January 1993, the official transferred to another state department where, as of December 2, 1996, he was still employed.

The Official's Role With the Main Contractor of the DMV's DBR Project


After leaving state service in October 1990, the official represented and assisted in representing the DBR project's main contractor before the DMV in violation of state laws. According to the FPPC, from October 1990 through December 1991,

¹⁶A description of the portions of the Political Reform Act violated by the official can be found in Appendix B.

while the official was employed by the contractor, the official regularly attended meetings with DMV officials as a representative of the contractor to monitor the progress of the DBR project and to discuss project issues that were the same issues he dealt with while he was employed at the DMV.



The FPPC found the official violated two state laws.



Moreover, according to the FPPC, in 1991, the official wrote, as an employee of the contractor, several letters to the management of the DMV's EDP division with the intent of influencing them in making decisions on the DBR project that would benefit the contractor. Hence, according to the FPPC, the official's actions in representing the contractor for compensation before the DMV violated Section 87401 of the California Government Code.

Finally, according to the FPPC, the official regularly advised and gave direction to other contractor staff who had contact with the DMV on the DBR project. According to the FPPC, the official's actions in aiding, advising, counseling, consulting, and assisting in representing the contractor for compensation before the DMV on the DBR project violated state law.

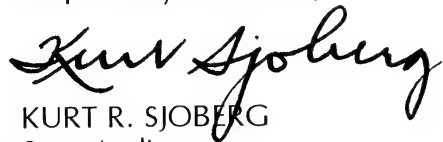
Agency Response

The DMV believes that the improper activities occurred as a result of poor judgment by the former official and not as a result of failure to implement any conflict-of-interest rule or procedure.

Update on Previously Reported Issues

We conducted these investigations under the authority vested in the state auditor by Section 8547 of the California Government Code and in compliance with applicable investigative and auditing standards. We limited our review to those areas specified in the scope sections of this report.

Respectfully submitted,



KURT R. SJOBERG
State Auditor

Date: March 18, 1997

Investigative Staff: Ann K. Campbell, Manager, CFE
William Anderson
Stephen Cho, CGFM
Virginia Anderson Johnson
Cynthia A. Sanford, CPA, CGFM
Dore C. Tanner, CPA, CFE

Information Technology Staff: Karl Okamoto, CISA, CIA

Appendix A

Activity Report

Action Taken as a Result of Investigative Reports

—◆—
*Investigations have
identified approximately
\$7.4 million in improper
activities.*
—◆—

Since July 1993, when the Bureau of State Audits (bureau) reactivated the whistleblower hotline (formerly administered by its predecessor, the Office of the Auditor General) investigations have identified improper governmental activities that cost the taxpayers approximately \$7.4 million. These improper activities included theft of state property, false claims, conflicts of interest, personal use of state resources, and others. In addition, investigations substantiated other improper activities that cannot be quantified in dollars, but have had a negative societal impact. Examples of these improper activities include violations of fiduciary trust, failure to perform mandated duties, and abuse of authority.

Although the bureau investigates improper governmental activities, it does not have enforcement powers. As stated in the Summary, when allegations of improper governmental activity are substantiated, the state auditor reports the nature and details of the activity to the head of the employing agency or the appropriate appointing authority. It is then up to the employing agency or appointing authority to take whatever corrective action it deems appropriate. However, the entity receiving the state auditor's report is required to report back to the state auditor any corrective action taken, including disciplinary action, no later than 30 days after the date of the investigative report. If corrective action is not completed within 30 days, the agency or appointing authority must report to the state auditor monthly until the action is complete. In addition, the act empowers the state auditor to report improper governmental activities to other appropriate authorities, such as law enforcement or other entities having jurisdiction over the activities.

Corrective actions taken on cases contained in this report are described in the individual chapters. Table 1 summarizes all of the corrective actions taken by departments and agencies since the bureau activated its whistleblower hotline in July 1993.

Table 1

***Corrective Actions Taken
July 1993 Through December 1996***

Type of Corrective Actions	Instances
Referrals for criminal prosecution	58
Convictions	3
Job terminations	17
Demotions	5
Pay reductions	7
Suspensions without pay	5
Reprimands	54

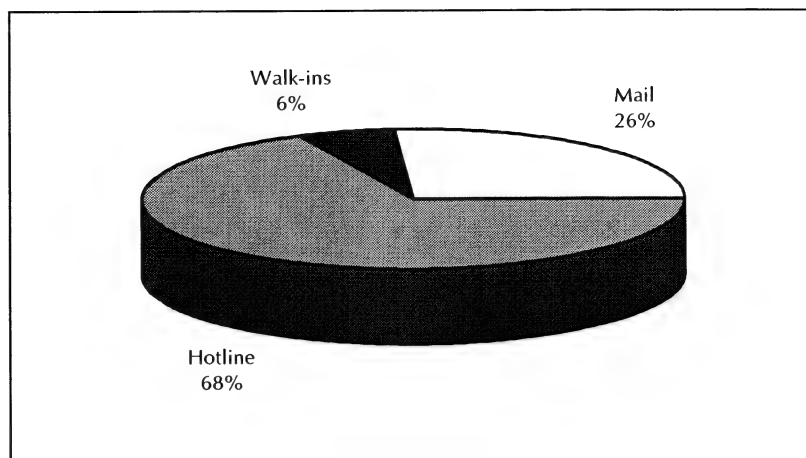
In addition, dozens of departments have modified or reiterated their policies and procedures to prevent future improper activities.

***New Cases Opened
August Through December 1996***

Whistleblower hotline:
(800) 952-5665

We receive allegations of improper governmental activities in several ways. The largest proportion of allegations come from individuals who call our whistleblower hotline at (800) 952-5665.¹⁷ From August 1 through December 31, 1996, we opened 143 new cases. Of these 143 new cases, 97 (68 percent) came as a result of individuals calling the hotline. We also opened 37 new cases based on complaints received in the mail and 9 new cases based on complaints from individuals who visited our office. Figure 1 shows the sources of cases opened from August 1 through December 31, 1996.

¹⁷ In total, we received 2,810 calls on the whistleblower hotline from August 1 through December 31, 1996. However, 2,146 (76 percent) of the calls were about issues outside our jurisdiction. In these cases, we attempted to give the caller the telephone number of the appropriate entity to handle their complaints. Another 567 (20 percent) of the calls were related to previously established case files.

Figure 1***Sources of 143 New Cases Opened
August 1 Through December 31, 1996******Work on Investigative Cases
August Through December 1996***

In addition to the 143 new cases opened during August through December 1996, 52 cases were awaiting review or assignment and 16 cases were still under investigation by either this office or other state departments at the beginning of the period. As a result, 211 cases required some level of review during the period. Furthermore, for three other cases, investigations had been completed and publicly reported, but the employing departments had not completed their corrective action. Chapter 10 summarizes corrective action taken on these three investigations since August 1, 1996.

The act specifies that the state auditor may conduct an investigation upon receiving specific information that any employee or state agency has engaged in an improper governmental activity. After reviewing both the information provided by complainants and the preliminary work by investigative staff, we assess whether sufficient evidence of wrongdoing exists to mount an investigation. In 112 of the 211 cases, we concluded that there was not enough evidence of improper governmental activity for us to mount an investigation.

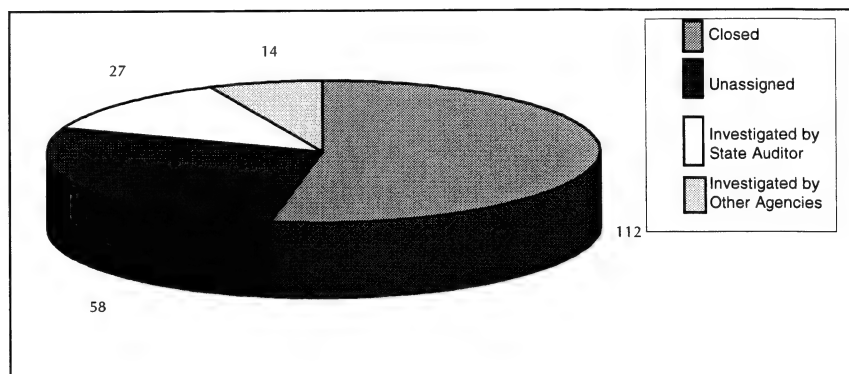
The act also specifies that the state auditor may request the assistance of any state department, agency, or employee in conducting any investigation. From August 1 through December 31, 1996, state departments investigated 14 cases

on our behalf. Departments substantiated allegations on 6 (55 percent) of the 11 cases they completed during the period.

In addition, we investigated 27 cases from August 1 through December 31, 1996. We substantiated allegations on all 8 of the cases we completed during the period. Figure 2 shows action taken on case files during the period from August 1 through December 31, 1996.

Figure 2


***Disposition of 211 Cases
August 1 Through December 31, 1996***




Appendix B

State Laws, Regulations, and Policies

This appendix provides more detailed descriptions of state laws, regulations, and policies that govern employee conduct and prohibit improper governmental activities.




*Chapters 1 and 10
report thefts.*




Theft

The California Penal Code, Section 484, states that every person who knowingly defrauds any other person of money is guilty of theft. Moreover, Section 487 states that grand theft includes theft of a value exceeding \$400. Section 489 specifies that grand theft is generally punishable by imprisonment in a county jail not exceeding one year or in the state prison.



*Chapters 2, 6, 7, and 9
report personal use of
state resources.*



Personal Use of State Resources

California Government Code Section 8314 prohibits state employees from using state resources—including equipment, telephones, and computers—for personal advantage or for an endeavor not related to state business. If such use is more than incidental or minimal and results in a gain or advantage to the individual or a loss to the State for which a monetary value can be estimated, the individual may be liable for a civil penalty not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use.


Section 19990 of the California Government Code (code) and applicable departmental incompatible-activities policies prohibit state employees from engaging in activities that are clearly inconsistent, incompatible, or in conflict with their duties as state employees. Such activities include using state time, facilities, equipment, or supplies for private gain or advantage. Section 19990 also prohibits state employees from using the State's prestige or influence for their own private gain or advantage or the private gain of another. Further, Section 19990 of the code requires state employees to devote their full time, attention, and efforts to their state employment during their hours of duty.

The State Administrative Manual, Section 4520, prohibits employees from placing personal long-distance calls from state telephones unless they are charged to another telephone number. It also requires employees to keep the number and length of personal calls to a minimum.

Finally, the Department of Water Resources' administrative manual, Section 7134, states that all personal telephone calls on state telephones, incoming as well as outgoing, should be kept at a minimum.

Incompatible Activities

Incompatible activity prohibitions exist to prevent state employees from being influenced in the performance of their official duties or from being rewarded by outside entities for any official action.


Chapters 2, 3, 5, 6, 7, 9,
and 10 report
incompatible activities.

California Government Code Section 19990 prohibits state employees from engaging in any employment, activity, or enterprise which is clearly inconsistent, incompatible, or in conflict with their duties as a state employees. Such activities include using the prestige or influence of the State for the employee's private gain or advantage or the private gain of another. They also include using state time, facilities, equipment, or supplies for private gain or advantage. In addition, a state employee is prohibited from receiving or accepting, directly or indirectly, any gift, money, service, gratuity, favor, entertainment, hospitality, loan, or any other thing of benefit or value from anyone who does or seeks to do business of any kind with the employee's department, under circumstances from which it reasonably could be substantiated that there was an intent to influence the employee in the performance of official duties or that there was an intent to reward an official action. Prohibited incompatible activities for state employees also include failing to devote full time, attention, and efforts to their state jobs during their hours of duty as state employees.

California Penal Code Section 70 states that a state employee who knowingly asks, receives, or agrees to receive any gratuity is guilty of a misdemeanor.

Political Reform Act

—◆—
Chapters 5 and 10 report violations of the Political Reform Act.
—◆—

The Political Reform Act of 1974, contained in California Government Code Section 81000, et seq., requires designated employees to file annual statements of economic interests that disclose the sources of income and gifts.

California Government Code Section 87401 provides that no former state administrative official shall for compensation represent any person other than the State of California before any court or state administrative agency in any proceeding if the official previously participated in the proceeding in his or her official capacity and if the State is a party or has a direct and substantial interest in the proceeding. Further, Section 87402 prohibits a former state administrative official from receiving compensation to aid or assist in representing a person in a proceeding in which the official would be prohibited from appearing under Section 87401.

Travel Expense Claims

—◆—
Chapters 3 and 4 report improper claims for travel expense reimbursements.
—◆—

Penal Code Section 72 states that every person who, with intent to defraud, presents for payment to any state board or officer any false or fraudulent claim is punishable either by imprisonment, fine, or both.

Title 2, Article 2, of the California Code of Regulations permits reimbursement for actual and necessary out-of-pocket expenses incurred by state employees because of travel on official state business.


Sections 599.626(b) and 599.626.1(b) of Title 2 of the California Code of Regulations state that reimbursement will be made only for the method of transportation that is in the best interest of the State. Specifically, when a trip commences or terminates at an employee's home, the employee must compute the distance traveled from either his headquarters or home, whichever shall result in the lesser distance.

Relocation Expenses


—◆—
Chapter 4 addresses relocation expenses.
—◆—

Section 599.722 of Title 2 of the California Code of Regulations states that an employee shall be reimbursed for actual lodging, meals, and incidental expenses for up to 60 days in accordance with and not to exceed the rates established in Section 599.619 when locating a permanent residence in a new location. Section 599.722 also states that these reimbursements

shall terminate immediately upon establishment of a permanent residence. According to the regulations, a permanent residence is typically an abode that is purchased or rented on a monthly basis, of a type that provides long-term living accommodations, where any utilities are hooked up (gas, electric, cable, telephone), and mail is delivered.



Chapter 4 addresses reimbursement of license fees.



Professional Licenses

Section 599.922 of Title 2 of the California Code of Regulations states that an employee shall be reimbursed for the actual cost of the application or renewal fees when the appointing power determines that the possession of a current professional license is required or is beneficial to the performance of an employee's duties.

Index to Reports of Investigations

<i>Department</i>	<i>Allegation Number</i>	<i>Allegation</i>	<i>Page Number</i>
40th District Agricultural Association	I960072	Violations of personnel rules and incompatible activities.	27
Board of Equalization	I960194	Misuse of the State's electronic mail.	36
Education	I940262	Update on illegal activities and circumvention of state policies and controls.	40
Finance	I960196	Misuse of the State's electronic mail.	35
Franchise Tax Board	I960197	Misuse of the State's electronic mail.	36
General Services	I950098	Update on theft of computer equipment and conflicts of interest.	39
General Services	I960025	Improper claims for reimbursement.	19
Health Services	I960193	Misuse of the State's electronic mail.	36
Motor Vehicles	94107.2	Update on conflicts of interest.	41
Personnel Administration	I960030.1	Theft of retirement funds.	1
Public Employees' Retirement System	I960195	Misuse of the State's electronic mail.	37
Social Services	I950158	Improper procurement practices.	33
Social Services	I960019.1	Improper acceptance of gifts from a licensee.	25
Social Services	I960019.2	False travel and attendance claims.	11
State Controller's Office	I960198	Misuse of the State's electronic mail.	35
Transportation	I950149	Misuse of state computers, telephones, and employees.	5
Water Resources	I960098	Misuse of state computers and telephones.	29

cc: Members of the Legislature
Office of the Lieutenant Governor
Attorney General
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps